

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RECEIVED

[APR - 5 1993]

RM-8179 FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re Petition of)
)
CELLULAR TELECOMMUNICATIONS)
INDUSTRY ASSOCIATION)
)
For Declaratory Ruling and)
Amendment of the Commission's)
Policies and Rules Pertaining to)
the Regulation of Cellular Carriers)

RM-8179

To: The Commission

REPLY COMMENTS OF SPRINT CELLULAR COMPANY

Sprint Cellular Company ("Sprint"), formerly Centel Cellular Company, hereby submits its reply comments on the above-captioned Request for Declaratory Ruling and Petition for Rulemaking ("Petition") filed by the Cellular Telecommunications Industry Association ("CTIA").¹

Sprint joins the majority of commenters in generally supporting CTIA's Petition. In particular, Sprint agrees that the Commission should issue a declaratory ruling affirming that cellular services are essentially intrastate in nature and thus exempted from federal tariff jurisdiction pursuant to Section 221(b) of the Communications Act.² Further, regardless of whether or not the issue of cellular dominance is addressed at this time, Sprint urges the

¹ The Petition appeared on Public Notice, Report No. 1927 (Feb. 17, 1993).

² Sprint also agrees that Section 203(a) of the Communications Act should be available to those cellular carriers that qualify as "connecting carriers."

No. of Copies rec'd
List A B C D E

Commission to adopt streamlined tariff filing rules for cellular services subject to federal tariffing jurisdiction.

I. CELLULAR SERVICES ARE PRIMARILY INTRASTATE AND THUS FALL WITHIN THE SECTION 221(b) EXEMPTION TO FEDERAL TARIFF JURISDICTION

As CTIA and several of the commenters have fully demonstrated, the essential nature of cellular service, as well as the major patterns of cellular calling, are intrastate.³ Indeed, to the extent interstate cellular service is provided, it is generally accomplished through transmission over the facilities of interexchange carriers.⁴ As such, Sprint concurs with CTIA that Section 221(b) of the Communications Act exempts the vast majority of cellular services from federal tariffing requirements.

Section 221(b) exempts from Commission tariff jurisdiction

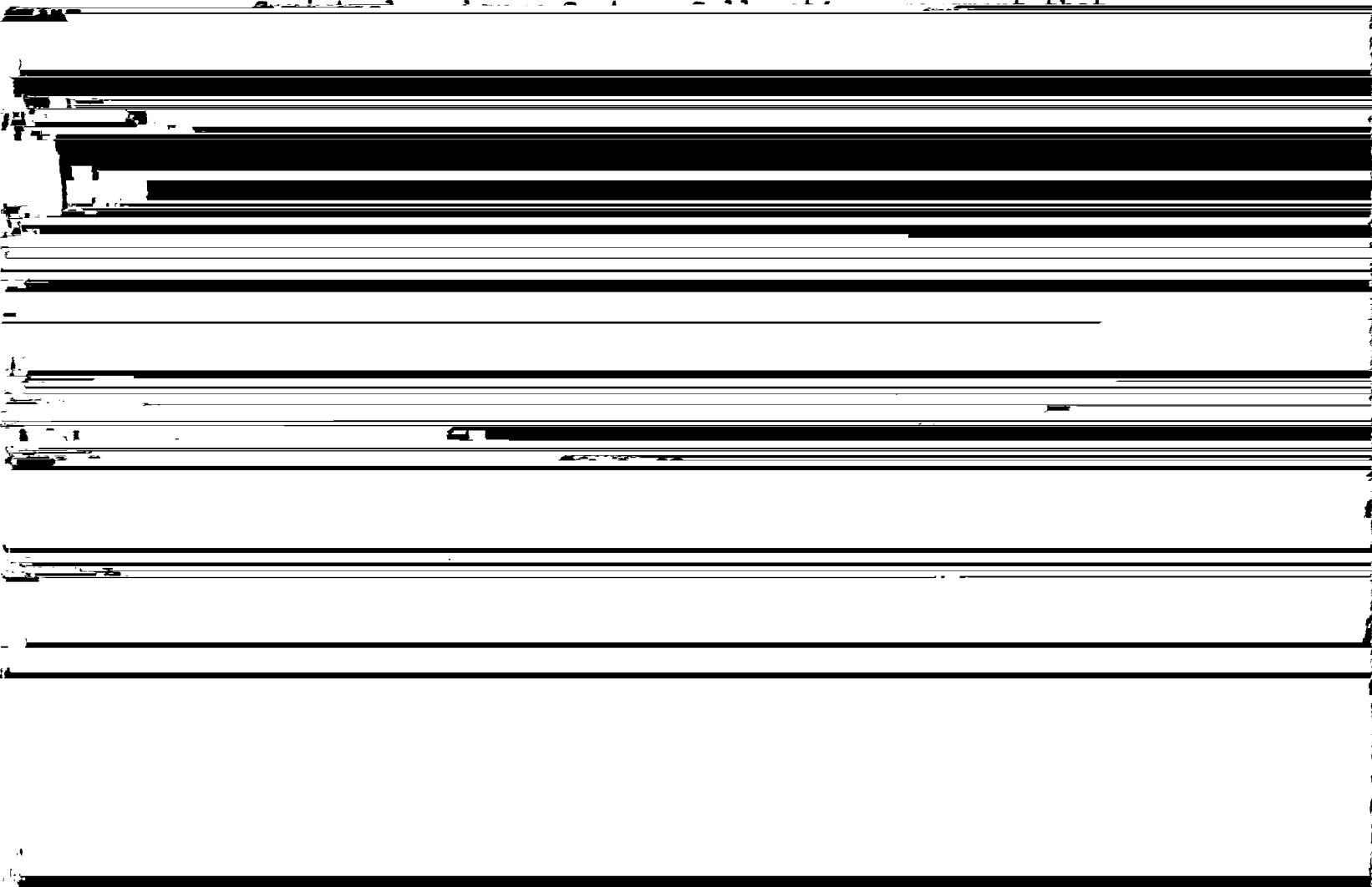
wire, mobile, or point-to-point radio telephone exchange service, or any combination thereof, even though a portion of such exchange service constitutes interstate or foreign communication, in any case where such matters are subject to regulation by a State commission or by local government authority.⁵

Sprint agrees with CTIA and several of the other commenters that this provision exempts cellular service that, although

³ See, e.g., GTE at iv; PacTel at 2.

⁴ Sprint provides resold interexchange services pursuant to federally filed requirements.

interstate, is wholly encompassed within a particular MSA or RSA. Like local exchange wireline telephone serving areas, cellular markets in some cases contain multiple state jurisdictions.⁶ Such boundaries were drawn for valid reasons -- to reflect projected patterns of local calling. As underscored by Comcast, Section 221(b) of the Act implicitly confirms that "exchange area calling scopes can span state boundaries, a conclusion which is also implicit in the Commission's creation of cellular geographic markets which, at least in the case of the MSAs, are not necessarily confined within state boundaries."⁷




221(b) exemption on the 'nature' of the services, not the location of the facilities."⁹

Finally, Sprint agrees with Comcast and several other commenters that, given the states' inherent authority to regulate cellular carriers, the "subject to state regulation" prong of the Section 221(b) analysis should be deemed satisfied even where states have chosen not to impose active regulatory constraints on cellular operations.¹⁰

II. CELLULAR CARRIERS SHOULD BE SUBJECT TO ONLY MINIMAL
TARIFF FILING REQUIREMENTS

To the extent the Commission finds some aspect of cellular service subject to federal jurisdiction, Sprint



As demonstrated by CTIA and many of the commenters, detailed tariff requirements are both unnecessary and potentially detrimental. First, the delays and costs of complying with extensive tariff requirements would restrict cellular licensees' ability to respond swiftly and flexibly to address consumer needs. Second, the imposition of full tariff requirements on cellular carriers would give their non-tariffed competitors -- such as SMR and ESMR providers and possibly PCS licensees -- a substantial marketplace advantage. For these reasons, the public interest requires minimizing federal tariffing requirements on cellular licensees to the maximum extent possible.

Sprint therefore supports the adoption of streamlined requirements for cellular carriers. Reduced informational requirements would satisfy the requisites of the Communications Act, while minimizing the regulatory burdens on cellular carriers. Permitting cellular licensees to submit "banded rates" would similarly minimize tariff preparation burdens as well as enable these carriers to maintain a variety of pricing plans to address individual customer needs. Allowing cellular tariffs to be effective upon minimum notice would allow cellular carriers to respond quickly to competition and changing customer demands. These policies would promote competition and afford cellular carriers flexibility in responding to consumer needs.

III. CONCLUSION

For the foregoing reasons, Sprint joins the majority of commenters in supporting CTIA's Petition. A prompt resolution of these issues is necessary to eliminate existing uncertainty and to avoid unnecessary regulatory burdens.

Respectfully submitted,

SPRINT CELLULAR COMPANY

By: Kevin C. Gallagher (NLV)
Kevin C. Gallagher
Vice President and General
Counsel
SPRINT CELLULAR COMPANY
8725 W. Higgins Road
Chicago, IL 60631
(312) 399-2500

April 5, 1993

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of April, 1993, I caused copies of the foregoing "Reply Comments of Sprint Cellular Company" to be mailed via first-class postage prepaid mail to the following:

Michael F. Altschul
Vice President and General Counsel
Cellular Telecommunications Industry
Association
Two Lafayette Centre, Suite 300
1133 21st Street, N.W.
Washington, D.C. 20036

Nancy A. Bettors